

Flathead County
Rural Whitefish Planning & Zoning Jurisdiction Transition
Option Analysis Matrix¹

Option:	1) Take no action, allow interim zoning to expire. ²				2) During term of interim zoning, pursue planning process to update 1996 Whitefish City-County Master Plan. ³			3) During term of interim zoning, pursue planning process to update 1996 Whitefish City County Master Plan using current city-adopted 2007 Whitefish Growth Policy as starting point. ⁴		
Sub-Option:	1a) After expiration of interim zoning, repeal current county adopted 1996 Whitefish City-County Master Plan. Rely on Flathead County Growth Policy for land use decisions.	1a-i ⁸) Prior to expiration of interim zoning, repeal 1996 Whitefish City-County Master Plan then possibly amend Flathead County Growth Policy to add future land use map from 2007 Whitefish Growth Policy and revise text as needed. Replace interim zoning with county Part 2 zoning classifications based on Growth Policy.	1b) After expiration of interim zoning, only administer plans and zoning adopted by Flathead County Commissioners. ⁵	1c) After expiration, allow only Part 1 zoning applications/amendments. Part 1 zoning does not require compliance with a neighborhood plan or growth policy, only description of a “development pattern” for each district. ⁶	2a) Use 1996 plan “as-is.” Replace interim zoning with existing county Part 2 zoning classifications consistent with this plan. ⁷	2b) Update 1996 plan, limit scope of update to future land use map and associated text within plan. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	2c) Update 1996 plan, do not limit scope and create updated plan with format and content that suits rural Whitefish for 20-year planning horizon. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	3a) Review/adopt 2007 plan “as-is.” Replace interim zoning with existing county Part 2 zoning classifications consistent with this plan.	3b) Modify 2007 plan, limit scope of update to adopting future land use map and associated text and remove portions not workable and/or desirable to rural residents. Replace interim zoning with existing county Part 2 zoning classifications consistent with this updated plan.	3c) Choose option 3a or 3b, then implement with new, special county Part 2 zoning classifications adopted to match permitted uses and bulk and dimensional requirements of “W” zoning in place at end of interlocal agreement.
Pros:	<ul style="list-style-type: none">• Eliminates plan and planning processes that are typical source of allegations of errors in a litigation-prone situation.• Reduces long-term demand on county planning resources.	<ul style="list-style-type: none">• Allows use of Whitefish’s Future Land Use Map (upon which present zoning is based) without adopting entire 2007 Whitefish Growth Policy.• Avoids more time consuming plan review processes in Options 2 of 3.	<ul style="list-style-type: none">• Least demand on county planning resources.• Those who had their property zoned by Whitefish with a “W” zoning classification and did not support the zoning would be unzoned or revert to county zoning.	<ul style="list-style-type: none">• No updating or adoption of a broad community plan required prior to consideration of individual Part 1 districts.• Landowner support would be required, 60% of landowners in an area 40 acres or more in size.	<ul style="list-style-type: none">• Allows quickest adoption of a permanent replacement for current interim zoning using existing Part 2 zoning classifications.• Uses entire 1996 plan jurisdiction.	<ul style="list-style-type: none">• Process of updating an existing plan is clearly outlined in Part 4 of Chapter 11 of Growth Policy.• Likely achievable within two-year interim zoning lifespan.• Addresses planning in entire 1996 plan jurisdiction.	<ul style="list-style-type: none">• Process of updating an existing plan is clearly outlined in Part 4 of Chapter 11 of Growth Policy.• Addresses planning in entire 1996 plan jurisdiction.• Optimal outcome is a plan that may serve rural Whitefish for many years.	<ul style="list-style-type: none">• Minimizes demand on county planning resources since plan exists.• Recognizes work done by community in 2007.• Adopts zoning close to what was there, without “Special Provisions” of Whitefish’s zoning that created controversy.	<ul style="list-style-type: none">• Uses public process to identify and eliminate or revise controversial policies of 2007 plan.• Adopts zoning close to what was there, without “Special Provisions” of Whitefish’s zoning that created controversy.	<ul style="list-style-type: none">• Provides for most consistent land use regulations with what existed under Whitefish’s jurisdiction.• Most compatible with adjacent municipality’s urban growth and zoning, required by 76-2-203 M.C.A.
Cons:	<ul style="list-style-type: none">• Eliminates detailed guidance for future land use decision making in rural Whitefish area.	<ul style="list-style-type: none">• Permanent Part 2 zoning to replace interim zoning wouldn’t be based on a separate local plan.• Flathead County Growth Policy contains broad goals and policies with opportunity for debate over meaning/applicability to very specific areas.	<ul style="list-style-type: none">• Areas that were amended to a “W” zone from a county zone would go back to county zone, creating non-conforming uses.• Those who supported the “W” zoning on their property and/or may have pursued zone changes, PUDs or permits under “W” zoning would now be unzoned.	<ul style="list-style-type: none">• Significant administrative challenges associated with adding Part 1 zoning districts to existing Part 2 zoning regulations. Separate rules and standards, separate revenues and expenditures sources to track, separate planning and zoning commissions, etc., all for each district.	<ul style="list-style-type: none">• 1996 plan is dated and doesn’t reflect many existing conditions and/or current projected trends.• Many current zones and/or zoning amendments adopted under Whitefish’s jurisdiction may be “downzoned” to comply with this plan.⁷	<ul style="list-style-type: none">• Doesn’t allow for full inventory of existing characteristics, projected trends, available public services and infrastructure, etc. in 2014. Plan remains somewhat dated.• Requires more county planning resources (staff and Planning Board) than some other options.	<ul style="list-style-type: none">• Achieving scope of work will require substantial county planning resources (staff and Planning Board) and a public/political will to progress quickly through process.• May still not be achievable within two-year interim zoning lifespan.	<ul style="list-style-type: none">• Many policies of 2007 plan controversial to rural landowners.• Plan jurisdiction boundary not the same as 1996 plan, would need to be expanded or would create a doughnut of 1996 boundary.• Current county zoning classifications are still different than Whitefish’s previous “W” classifications.	<ul style="list-style-type: none">• Plan jurisdiction boundary not the same as 1996 plan, would need to be expanded or would create a doughnut of 1996 boundary.• Current county zoning classifications are still different than Whitefish’s previous “W” classifications.	<ul style="list-style-type: none">• Adopting new “special” zones into text of Flathead County Zoning Regulations takes more time in addition to plan update and zoning map adoption.• “Special” zones can introduce challenges with consistency and interpretation. Ex. Ashley Lake, North Fork, etc.
Follow-up question or issue created by option:	<ul style="list-style-type: none">• Repeal of 1996 plan may not comply with Goals 46 and/or 49 of Growth Policy.	<ul style="list-style-type: none">• Review Growth Policy to ensure proposed amendments will retain internal consistency of document.	<ul style="list-style-type: none">• Significant concerns from parties that pursued zone changes or got permits with zoning in place.	<ul style="list-style-type: none">• Research how to administer/enforce multiple Part 1 zoning districts.			<ul style="list-style-type: none">• What happens at end of 2 years if project is not complete?	<ul style="list-style-type: none">• Since 2007 plan is not listed as an “existing” plan in Part 4 of Chapter 11 of Growth Policy, process to use is not as clear as using 1996 plan.	<ul style="list-style-type: none">• Since 2007 plan is not listed as an “existing” plan in Part 4 of Chapter 11 of Growth Policy, process to use is not as clear as using 1996 plan.	

¹The purpose of this document is to inform rural Whitefish landowners, Flathead County decision makers and the general public about some of the options that were discussed at Planning Board public workshops on October 01 and October 15, 2014 and that are currently available for planning and zoning in the rural areas outside the city of Whitefish at the end of the term of the current interim zoning. This analysis was originally requested by the Flathead County Planning Board at the October 01, 2014 public workshop. It was prepared by planning staff and given to the Planning Board on October 08, 2014 and posted on the planning office’s website on October 09, 2014. At the October 15, 2014 public workshop, after public comment and board discussion, the board requested staff add Option 1a-i (see footnote #8 below). This additional option was added by planning staff on October 16, 2014 and the revised analysis was re-posted to the planning office’s website on October 16, 2014. This document is intended to serve as an informational starting point for discussion, public participation and additional research. Given the unprecedented nature of the rural Whitefish area jurisdiction transition, in order to create this document and present options, some assumptions had to be made.

For those unfamiliar with planning terminology, plans referenced herein (such as the county wide Flathead County Growth Policy, the 1996 Whitefish City County Master Plan and the 2007 Whitefish Growth Policy) are non-regulatory documents that generally outline a community vision for the future, inventory existing characteristics of a community, present projected growth trends, and establish goals for how growth should occur within the plan’s jurisdiction. Policies regarding such things as location of growth, public services and infrastructure to serve growth, and environmental impacts of growth are typically set forth in a plan to guide decision makers over time and help achieve the goals. Communities are not required to adopt plans, but if a community chooses to adopt plans, they must be made and adopted according to state laws. These laws are found in 76-1-601 et. seq., M.C.A. Since plans are non-regulatory, they are implemented using regulatory methods (regulatory means those for which an enforcement mechanism is authorized if violated, such as a misdemeanor) such as subdivision regulations and zoning regulations. Zoning is regulatory, and Part 2 zoning must be made in accordance with, or implement, the stated goals and policies of a plan. See footnote 6 below for an important explanation of differences between Part 1 and Part 2 zoning in rural areas.

²The current interim zoning was adopted September 09, 2014 pursuant to Resolution #2394 and will expire at the end of one year. The Commissioners may extend the interim zoning for up to one additional year. The interim zoning was adopted to most closely replicate the permitted land uses and bulk and dimensional requirements of the “W” zoning that was adopted by the Whitefish City Council outside of city limits prior to and during the period of the Interlocal Agreement.

³The 1996 Whitefish City County Master Plan was adopted jointly by the Flathead County Commissioners and Whitefish City Council on February 06, 1996 and February 20, 1996 (respectively). This is the local plan for the rural Whitefish area referenced in Part 4 of Chapter 11 of the Flathead County Growth Policy. The 1996 plan boundary extends approximately 4½ miles outside Whitefish city limits as they existed at that time.

⁴The 2007 Whitefish Growth Policy was adopted by the Whitefish City Council in November 2007 and at that time applied to areas within city limits and within the interlocal agreement boundary. The interlocal agreement boundary was *approximately* 2 miles from Whitefish city limits as they existed in 2005. This 2007 Whitefish Growth Policy was not adopted by the Flathead County Commissioners for areas outside Whitefish city limits.

⁵Under this option/scenario, the 1996 Whitefish City County Master Plan and any county zoning adopted by the Flathead County Commissioners in the past would continue to exist. Zoning in areas that had been zoned with a “W” zone by the Whitefish City Council would cease to exist. “W” zoning within one mile of city limits that was passed by the Whitefish City Council prior to 2005 pursuant to 76-2-310 M.C.A. would not exist. County zones that were adopted by the Flathead County Commissioners in the past that have been amended by the Whitefish City Council to a different county zone or to a “W” zone would revert to the last zoning approved by the Commissioners.

⁶Under Montana law, there are two basic types of zoning that can be adopted in rural areas. Part 1 zoning is referred to as “citizen initiated” zoning. When 60% of the landowners in an area of 40 acres or more petition the county for zoning, the Commissioners may adopt it. Part 1 zoning districts each have a separate “Planning and Zoning Commission,” each would have separate regulatory standards, each have a separate levy within the district to pay for administration and enforcement of the zoning district, and are adopted to implement a separate “development pattern” identified for each district. Part 1 zoning is not specifically required to be made in accordance with a Growth Policy. See 76-2-101 et. seq., M.C.A. regarding details of “citizen initiated” Part 1 zoning. Currently, Flathead County only has one Part 1 zoning district in the Egan Slough area and because it has unique and separate regulatory standards and administrative requirements, it is not a part of the Flathead County Zoning Regulations. Part 2 zoning is the second type of zoning under Montana law and it is referred to as “county initiated” zoning. Part 2 zoning may be initiated by the Commissioners for purposes of “promoting the public health, safety, morals, and general welfare” of a jurisdictional area and must be made in accordance with a growth policy or plan. The current Flathead County Zoning Regulations are adopted under Part 2 zoning. See 76-2-201 et. seq., M.C.A. regarding details of “county initiated” Part 2 zoning.

⁷Pursuant to the criteria for adopting Part 2 zoning found in 76-2-203 M.C.A. and Section 2.08.040 of the Flathead County Zoning Regulations, zoning regulations must be made in accordance with the Growth Policy. The 1996 Whitefish City County Master Plan has been adopted as an element of the Flathead County Growth Policy. Therefore, any permanent zoning would have to comply with the 1996 plan and according to the Introduction, the plan is composed of two major components, the text and the map, that must be weighed equally (page 3). Since the 1996 plan was not updated by the county while the interlocal agreement was in place, some of the current zoning that was adopted by Whitefish in accordance with the 2007 Whitefish Growth Policy would not comply and could not be adopted under the current county 1996 plan.

⁸Option 1a-i added after Planning Board discussion at October 16, 2014 public workshop.